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ATTORNEY FOR PLAINTIFF
UNITED STATES OF AMERICA

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MONTANA
GREAT FALLS DIVISION

UNITED STATES OF AMERICA, Plaintiff, vs. JAYCOB TYLER KUTZERA, Defendant.	CR 17-48-GF-BMM NOTICE OF RULE 414/404(b) EVIDENCE REGARDING POSSESSION OF OTHER CHILD PORNOGRAPHY
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The United States hereby provides the Defendant notice, pursuant to Rule 414, that it intends to introduce evidence that Defendant Jaycob Kutzera committed other acts of child molestation, namely possession of child pornography files depicting children other than “Jane Doe.” In a criminal case in which a defendant is accused of child molestation, the court may admit evidence that the defendant

committed any other child molestation. The evidence may be considered on any matter to which it is relevant. Fed. R. Evid. 414(a). The United States must disclose the other evidence at least 15 days before trial or at a later time the Court allows for good cause. Fed. R. Evid. 414(b). “[C]hild molestation” includes a crime under federal law or under state law involving any conduct prohibited by 18 U.S.C. chapter 110. Fed. R. Evid. 414(d)(2)(B).

The Defendant is charged with committing multiple counts of sexual exploitation of a child, in violation of 18 U.S.C. § 2251(a). Doc. 1. This is conduct prohibited by 18 U.S.C. chapter 110. The United States has disclosed a written forensic report and results of the examination indicating the Defendant possessed multiple video and image files that depicted child pornography¹ on his computer. *See also* Doc. 22 (Notice of Expert Disclosure). The Defendant’s possession of child pornography is also conduct prohibited by 18 U.S.C. chapter 110. As such, Rule 414’s inclusionary other conduct rule is applicable to the Defendant.

In addition, the United States notifies the Defendant that it intends to introduce other act evidence pursuant to Rule 404(b), Fed. R. Evid. Rule 404(b) permits the admission of evidence of other crimes, wrongs, or acts of defendant for

¹ The files depicting the minor identified as “Jane Doe” in the indictment are inextricably intertwined with the evidence in this case. The sexually explicit files that are the subject of this notice refer to the images that depict children other than “Jane Doe.”

certain purposes, including but not limited to motive, opportunity, intent, preparation, plan, knowledge, identity, absence of mistake or accident. While examining the Defendant's computer, the forensic examiner also located Internet History records and search terms that relate to the sexual exploitation of children. As indicated above, the report and results have been disclosed to the Defendant and made available for review. This evidence shows the Defendant's motive, plan and intent while sexually exploiting Jane Doe. It also makes it more likely that the Defendant, and no other person, was at the keyboard coercing and attempting to coerce Jane Doe to engage in sexually explicit conduct for the purpose of producing a visual depiction of that conduct. Further, it negates the idea that the Defendant's conduct was an accident or mistake.

DATED this 14th day of November, 2017.

KURT G. ALME
United States Attorney

/s/ Cyndee L. Peterson
Assistant U.S. Attorney
Attorney for the Plaintiff